

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation Into the Gas Market Activities of Southern California Gas Company, San Diego Gas and Electric, Southwest Gas, Pacific Gas and Electric, and Southern California Edison and Their Impact on the Gas Price Spikes Experienced at the California Border from March 2000 through May 2001.

Investigation 02-11-040
(Filed November 21, 2002)

Order Instituting Investigation Whether San Diego Gas & Electric Company, Southern California Gas Company and Their Holding Company, Sempra Energy, Respondents, Have Complied With Relevant Statutes and Commission Decisions, Pertaining to Respondents' Holding Company Systems and Affiliate Activities.

Investigation 03-02-033
(Filed February 27, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
MODIFYING TESTIMONY REQUIREMENTS**

Summary

In this Administrative Law Judge's (ALJ) Ruling, I modify the testimony requirements established in the April 24, 2006 ALJ ruling for the consolidated hearings that will commence in Investigation (I.) 02-11-040 and I.03-02-033 on August 1, 2006. These changes are appropriate based on issues raised in the 2005 audit report of Alliance Consulting Group (Alliance) filed in I.03-02-033 on April 28, 2006.

In an email dated May 5, 2006, Southern California Edison Company (SCE) proposed certain modifications to the testimony requirements based on the

Alliance audit report. The Alliance audit report was discussed further during a scheduling conference call held later that day, as provided in the April 24, 2006 ALJ ruling. On May 9, 2006, San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) submitted a letter containing their proposed changes to the scope of testimony and an updated list of issues that they view as disputed or undisputed based on the Alliance audit report. Although given the opportunity to submit a response to the SDG&E/SoCalGas letter, SCE did not do so.

Based on my review of the parties' submittals and the Alliance audit report, the scope of testimony and evidentiary hearings is modified and will be limited to the following issues:¹

Scoping Memo Issue 1. Identification of covered affiliates and energy marketing affiliates for purposes of the affiliate transaction rules (Rules I.A, II.B and VI.B)²; whether the Commission rather than the utilities should make initial determinations regarding covered affiliates.

1. Have SoCalGas and SDG&E classified Sempra and their affiliates properly regarding whether they are covered by the affiliate transaction rules?

¹ For clarity, the related scoping memo issues and all issues identified in the April 24, 2006 ALJ ruling are reiterated here, with the issues renumbered as needed. Testimony should be limited to the sequentially-numbered issues identified in this ruling. Other instructions in the April 24, 2006 ALJ ruling regarding testimony requirements are also reiterated in this ruling, and modified as appropriate.

² The scoping memo issues reference relevant affiliate transaction rules or Remedial Measures identified in the GDS and NorthStar audits and/or in SCE testimony submitted in Phase I.A of I.02-11-040. Parties may address compliance with all relevant affiliate transaction rules, Remedial Measures, or other requirements, whether or not explicitly identified in the scoping memo issues or this ruling.

2. Have SoCalGas and SDG&E identified their energy marketing affiliates properly for purposes of Rule V.G.2.e?
3. Have SoCalGas and SDG&E complied with Rules II.B and VI.B regarding the creation of new affiliates?
4. Should the Commission rather than SoCalGas and SDG&E make initial determinations regarding which affiliates are covered by the affiliate transaction rules and which are energy marketing affiliates?
5. Should the Commission require SoCalGas and SDG&E to file at least annually a list of all affiliates along with adequate support and reasoning why each affiliate is covered or not covered by the affiliate transaction rules?

Scoping Memo Issue 2. *SoCalGas and SDG&E interconnect procurement activities with their liquefied natural gas (LNG) affiliates (Rules III.B.1, IV.B, and VII.I).*

6. Have SDG&E and SoCalGas violated the affiliate transaction requirements and/or their own Affiliate Compliance Guidelines either in connection with the posting of information provided to their LNG affiliates or with respect to any preferential treatment of such affiliates?
7. Have SoCalGas and SDG&E provided their LNG affiliates, either directly or through their holding company or another affiliate, non-customer specific non-public information? If so, was this in violation of the affiliate transaction requirements?
8. Should SoCalGas and SDG&E be required to post any nontariffed or tariffed services and related information that they provide their LNG affiliates? If so, should they be required to develop and maintain written policies and procedures for implementing this process?
9. Have SoCalGas and SDG&E, in interactions with their LNG affiliates, conducted themselves in the same manner as when dealing with unaffiliated third parties? Is it appropriate for SoCalGas and SDG&E to treat their LNG affiliates the same as unaffiliated third parties?

Scoping Issue 5. Transfer of non-customer specific non-public information and use of that information (Rules IV.B and V.E and Remedial Measures 6, 7, 12, 14, and 15); whether energy risk management should be prohibited as a shared service; whether SoCalGas and SDG&E should not be allowed to obtain energy market-related professional services from affiliates; whether there was inappropriate information sharing and/or decision making coordinated between SoCalGas and SDG&E; use of third-party telephone brokers by SoCalGas and SDG&E energy procurement groups.

10. Have SoCalGas and SDG&E violated the affiliate transaction requirements in connection with the use of telephone brokers? Should SoCalGas and SDG&E be prohibited from using third-party telephone brokers in connection with energy procurement transactions?
11. Have the Sempra companies violated the affiliate transaction requirements in the provision of risk management?
12. Has Sempra Energy Risk Management provided non-customer specific non-public information of SoCalGas and/or SDG&E to any affiliates or allowed affiliates to obtain such information through other means? If so, were these transfers in violation of the affiliate transaction requirements?
13. Has Sempra Energy Risk Management acted as a conduit between SoCalGas and its affiliates regarding financial positions in futures markets and SoCalGas Gas Acquisitions' gas purchasing plans or strategies? If so, were such transfers in violation of merger Remedial Measure 15?
14. Should Sempra be prohibited from providing risk management as a shared corporate service to SDG&E and SoCalGas?
15. Has SDG&E provided non-customer specific non-public information to SoCalGas regarding the status of nuclear plants in the region as well as information regarding electric

generation plant outages? If so, was this in violation of the affiliate transaction requirements?

16. Have SoCalGas and/or SDG&E provided non-customer specific non-public information regarding natural gas and wholesale electricity prices to their affiliates? If so, was this in violation of the affiliate transaction requirements?

17. Has SDG&E provided non-customer specific non-public information regarding the scheduling of ancillary services to its affiliates? If so, was this in violation of the affiliate transaction requirements?

18. Have activities of the Sempra Commodity Team violated affiliate transaction requirements?

19. Were any other activities described in Chapter 4 of SCE's testimony submitted in Phase I.B of I.02-11-040 improper?

Scoping Memo Issue 7. Sharing of plant, facilities, equipment, or costs (Rule V.C); whether SoCalGas and SDG&E should reconfirm all affiliate shared service application users, conduct Access Management Reviews, and keep documentation on file for improved management control.

20. Have the utilities shared plant, facilities, equipment, or costs related to Real Estate and Facilities (SDG&E and SoCalGas) or Oil/Gas Assessment and Extraction (SoCalGas) in a manner inconsistent with Rule V.C or other applicable Commission requirements?

Scoping Memo Issue 8. Shared employees (Rules V.G.1 and V.G.2.e); whether temporary work assignments should be reported based on the ultimate beneficiary of the work; whether SDG&E should suspend and prohibit joint temporary employee assignments with its affiliates.

21. Has SDG&E violated the affiliate transaction rules regarding temporary or intermittent employee assignments? Should SDG&E be required to suspend and prohibit joint temporary employee assignments with its affiliates?

22. Should SoCalGas' and SDG&E's compliance with Rule V.G.2.e be assessed based on the ultimate beneficiary of temporary or

intermittent work assignments?

Scoping Memo Issue 9. Whether SoCalGas and SDG&E should be required to develop written policies and procedures for each functional work group affected by the affiliate transaction rules.

23. Should SoCalGas and SDG&E be required to develop and maintain written policies and procedures for each functional work group affected by the affiliate transaction requirements?

24. Should SoCalGas and SDG&E be required to develop and maintain written separation policies and procedures?

Scoping Memo Issue 10. Whether the Affiliate Compliance Departments of SoCalGas and SDG&E should be given more prominence, with an increase in their level of resources and positioning in the organizations.

25. Should SoCalGas and SDG&E be required to give their Affiliate Compliance Departments more prominence and increase their level of resources and positioning within the organization?

Scoping Memo Issue 11. Whether future annual compliance audits should be performed under the direction of Commission staff, rather than SoCalGas and SDG&E (Rule VI.C); whether SoCalGas and SDG&E should be required to develop written policies and procedures that address how outcomes and recommendations of each annual compliance audit will be reviewed.

26. Should requirements for future annual compliance audits be modified for SoCalGas and SDG&E? Should the annual audits be performed under the direction of Commission staff, rather than SoCalGas and SDG&E? Are other changes to annual audit requirements appropriate for SoCalGas and SDG&E?

Scoping Memo Issue 12. Nontariffed products and services (Rules VII.D, VII.F, VII.H, and VII.I); data accessibility, business controls, accounting, auditing, and reporting practices; pricing relative to cost.

27. Has SDG&E implemented policies and procedures to provide timely and correct revenue information to the Commission for

nontariffed products and services? Should the nontariffed products and services annual reporting requirement be made an element of the affiliate transactions annual reporting requirement for SDG&E and SoCalGas?

28. Have SoCalGas and SDG&E complied with Rule VII.F regarding advice letter filing requirements for existing products and services?

29. Have SDG&E and/or SoCalGas provided nontariffed products or services at cost greater than revenue? If so, is this contrary to any Commission requirements or policies?

New Issue. Presentation of affiliate transactions related to purchases and sales of gas (Rules IV.F and IV.G and Order Instituting Rulemaking 92-08-008, as modified in Decision 93-02-019).

30. Should SoCalGas and SDG&E be required to report gas purchases and sales transactions with affiliates separately on Schedule D of their annual affiliate transactions reports?

For each identified issue, parties may address compliance with existing rules, requirements, and statutes; whether the companies' activities have been counter to the interests of California gas and electricity ratepayers, have benefited unregulated affiliates or impeded competition, or otherwise reflect conflicts between the interests of Sempra and the interests of the regulated utilities and their ratepayers; and whether additional rules, conditions, or other remedies should be implemented.

In addressing Issues 1, 2, and 3, SoCalGas and SDG&E should include in their testimony a list of all of their affiliates. For the holding company and each affiliate, SoCalGas and SDG&E should describe the company's purpose and activities, and should provide and justify their position regarding whether the company is covered by the affiliate transaction rules and whether it is an energy marketing affiliate.

SoCalGas and SDG&E should include their Affiliate Compliance Guidelines as part of their testimony regarding Issue 6.

In addressing Issues 11 through 14, SoCalGas and SDG&E should address Alliance's findings that, following the establishment of the utility Risk Management Department, non-public risk management information continued to be transmitted to Sempra Energy. (See pages 5 and 59 of Alliance's 2005 SoCalGas audit report and pages 5 and 58 of Alliance's 2005 SDG&E audit report.)

Issues 16 and 17 have been added, as agreed during the May 5, 2006 scheduling conference call.

Issue 20 has been added regarding the sharing of plant, facilities, equipment, and services (Rule V.C). Alliance identified charges from SDG&E and SoCalGas to their covered affiliates during 2005 (page 54 of the SDG&E audit report and page 55 of the SoCalGas audit report). While Alliance did not take issue with the reported charges, I request more information and justification regarding the charges for Real Estate and Facilities (SDG&E and SoCalGas) and Oil/Gas Assessment and Extraction (SoCalGas), which comprised the vast majority of charges to covered affiliates in 2005. For these two categories, SDG&E and SoCalGas should provide testimony detailing what plant, facilities, equipment, and/or services were shared with each covered affiliate in each year 2003, 2004, and 2005; how the amounts of charges were determined; and the source of Commission authorization for these activities. There appears to be a typographical error regarding charges for Accounting and Finance in Exhibit 7-5 on page 55 of Alliance's audit report for SoCalGas. In its testimony, SoCalGas should provide corrected charges for this table.

Issue 26 (identified as Issue 23 in the April 24, 2006 ALJ ruling) has been expanded to consider possible changes in audit requirements, including those suggested by Alliance (Policy Issues 1 and 2 and Conclusion 3 on pages 6, 64, and 65 of the SoCalGas and SDG&E audit reports).

Issues 27 and 29 (formerly Issues 24 and 26) regarding nontariffed products and services have been expanded based on more detailed information presented in the Alliance audit report. Regarding Issue 29, SDG&E and SoCalGas should submit testimony detailing how they calculate and allocate costs to each nontariffed product or service. For each category of nontariffed products and services, SoCalGas and SDG&E should provide a description of the category, the types and quantities of products and services contained within the category, the total and marginal or incremental costs allocated to the category, revenues derived from the category, and typical purchasers of the products and services. Cost and revenue data should be provided separately for each category of nontariffed products and services for each year 2003, 2004, and 2005.

One new topic not addressed in the March 21, 2006 scoping memo and new Issue 30 have been added as a result of the Alliance audit. Alliance stated (page 39 of the 2005 SDG&E audit report and page 40 of the 2005 SoCalGas audit report) that the companies will report gas purchases and sales transactions with affiliates separately on Schedule D of their annual affiliate transactions reports, beginning with the 2005 audit reports. SDG&E and SoCalGas should address whether they object to establishment of a requirement that they report gas purchases and gas sales transactions with affiliates separately in future affiliate transactions reports. They should address this issue in testimony if they object and may address it in the proposed exhibit discussed below if they do not object to this potential requirement.

SoCalGas and SDG&E have indicated that they either have implemented each undisputed audit recommendation or are in the process of doing so. For completeness of the record, SoCalGas and SDG&E should describe the status of implementation of each undisputed audit recommendation. SoCalGas and SDG&E should prepare a proposed exhibit that lists and describes the status of implementation of each undisputed audit recommendation not addressed elsewhere in testimony. They should serve the proposed exhibit on all parties along with their responsive testimony due June 13, 2006. If any party has concerns about possible receipt of the proposed exhibit without a sponsoring SoCalGas or SDG&E witness, it should notify me by letter or email, with service on all parties in I.03-02-033, no later than June 27, 2006. The party should specify which portions of the proposed exhibit raise evidentiary concerns, and why. Based on any such notifications and my own review of the proposed exhibit, I will notify SoCalGas and SDG&E if they should provide sponsoring witnesses for the proposed exhibit and/or additional information regarding implementation of the undisputed audit recommendations.

Parties were given advance electronic notice of this ALJ ruling.

Therefore, **IT IS RULED** that:

1. The scope of testimony and evidentiary hearings to be held on a consolidated basis in Investigation (I.) 02-11-040 and I.03-02-033 is as set forth herein.
2. Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) shall prepare a proposed exhibit that lists and describes the status of implementation of each undisputed audit recommendation not addressed elsewhere in their prepared testimony, and shall

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serve the proposed exhibit on all parties in I.02-11-040 and I.03-02-033, as provided herein.

3. Any party who has concerns about possible receipt of the proposed exhibit without a sponsoring SoCalGas or SDG&E witness shall notify the Administrative Law Judge by letter or email, with service on all parties in I.03-02-033, no later than June 27, 2006, and shall specify which portions of the proposed exhibit raise evidentiary concerns, and why.

Dated May 17, 2006, at San Francisco, California.

/s/ CHARLOTTE TERKEURST
Charlotte TerKeurst
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Modifying Testimony Requirements on all parties of record in this proceeding or their attorneys of record.

Dated May 17, 2006, at San Francisco, California.

/s/ ERLINDA PULMANO

Erlinda Pulmano

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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